



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

APR 18 2011

Christopher Koepfel
Environmental Team Leader
U.S. Army Corps of Engineers,
Vicksburg District
4155 East Clay Street
Vicksburg, MS 39183

Dear Mr. Koepfel:

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) prepared by the Vicksburg District, U.S. Army Corps of Engineers (USACE) for the New Orleans To Venice (NOV), Louisiana, Hurricane Risk Reduction Project, Incorporation of Non-Federal Levees (NFL) from Oakville to St. Jude, Plaquemines Parish, Louisiana. The USACE proposes to replace or modify the NFL for incorporation into the NOV Federal project in Plaquemines Parish, Louisiana.

EPA rates the DEIS as "EC-2" i.e., EPA has "Environmental Concerns and Requests Additional Information in the Final EIS (FEIS)". Detailed comments are enclosed with this letter which more clearly identify our concerns and the informational needs requested for incorporation into the FEIS.

EPA appreciates the opportunity to review the DEIS. Please send our office two copies of the FEIS when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20004. Our classification will be published on the EPA website, www.epa.gov, according to our responsibility under Section 309 of the CAA to inform the public of our views on the proposed Federal action. If you have any questions or concerns, please contact Michael Jansky of my staff at jansky.michael@epa.gov or 214-665-7451 for assistance.

Sincerely,

Rhonda Smith
Chief, Office of Planning
and Coordination

Enclosure

**DETAILED COMMENTS
ON THE
U.S. ARMY CORPS OF ENGINEERS
VICKSBURG DISTRICT
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE
NEW ORLEANS TO VENICE, LOUISIANA, HURRICANE
RISK REDUCTION PROJECT**

BACKGROUND

The U.S. Army Corps of Engineers (USACE), Vicksburg District, proposes to replace or modify 3 miles of existing non-Federal back levees, and construct from the ground up 2 miles of earthen back levees, both of which would be incorporated into the existing Federal New Orleans to Venice project. The USACE has prepared a DEIS to satisfy the Federal requirements established by the National Environmental Policy Act (NEPA). The following comments are offered for your agency's consideration in completing the Final EIS:

General Comments

EPA fully supports the efforts of the Corps to provide storm damage risk reduction measures for the residents and businesses of south Louisiana. While EPA has no conceptual concerns regarding this segment of the post-Katrina storm surge protection upgrades, we do have some concerns regarding the adequacy of the documentation of the analyses presented in the Draft EIS. The EIS often presents data with very little or no interpretation. It is the interpretation which should allow the public to weigh the costs, benefits, and impacts of the proposed project. This weighing of impacts and the evaluation of alternatives is a fundamental principle of the National Environmental Policy Act (NEPA).

The Final EIS must provide consistent documentation throughout as to whether sufficient funding is available to complete the project, which could have serious ramifications for funding mitigation and monitoring efforts. There is a similar lack of specificity regarding the local availability of construction source (borrow) material. Finally, the document needs clarity with regard to when the project construction would occur. It implies that the project is not on a fast track for construction. If the work is not planned to proceed immediately, it would seem that additional time should be available for developing the necessary specificity to provide a clear understanding of the borrow material issues, for developing a thorough wetland mitigation plan, and for augmenting the explanation of the impacts and alternatives to the phased approach to the settlement problem.

Another concern about the analyses is exemplified by the need of a specific wetland mitigation plan. With respect to compensatory mitigation for wetland impacts, the Final EIS should include enough specificity to support a determination of compliance with the Clean Water Act Section 404(b)(1) Guidelines, Section 2036 of the Water Resources Development Act of 2007, and with the 2008 joint Environmental Protection Agency (EPA)/Department of the Army final rule on compensatory mitigation for losses of aquatic resources.

The Draft EIS (Appendix J) contains a plan, which incorporates the recommendations from the December 2010 Draft U.S. Fish and Wildlife Service's Fish and Wildlife Coordination Act Report and a commitment from the Corps to mitigate according the findings of the Wetland Value Assessment (WVA). This is an excellent starting point. However, no specific wetland mitigation projects are identified to fully compensate for any unavoidable adverse impacts to wetlands from the project construction and from the removal of construction borrow material. The Final EIS should ensure that adequate mitigation has been planned and that it will be funded and implemented in a timely manner such that all lost wetland functions are offset concurrent with project implementation. These details should be made available for public and agency review in the Final EIS and incorporated into the Corps' Record of Decision.

The Final EIS should contain a commitment to synchronize implementation of wetland mitigation with construction and contain a specific plan to accomplish that goal. A list of priority mitigation areas is provided by the U.S. Fish and Wildlife Service (Draft Fish and Wildlife Coordination Act Report) but no analysis is offered in the Draft EIS as to whether those sites would be available to the Corps. This is particularly important in light of the competing demands for mitigation sites for the larger Greater New Orleans Hurricane and Storm Damage Risk Reduction System (GNOHSDRRS) Project and other flood protection and restoration efforts underway and planned for the region. Such issues are significant for project planning purposes, as well as for public disclosure and must be included in the Final EIS.

Specific Comments

1. Section 1.11, Pages 3- 4: The DEIS states that fill settlement is expected to be a "significant issue" in some parts of the non-federal levee system, to the extent that this document considers the possibility that "additional impact analysis will be required under an Environmental Assessment or Supplemental EIS." Indeed, the need for this project is based on settlement of the existing levee (see Section 3.1). If significant settlement is reasonably foreseen at this stage in the planning and construction is not slated to begin immediately, it would seem that this could be fully analyzed at this stage of the planning process. Evaluations of the previous and projected levee construction material settlement rates could be incorporated into the Final EIS. Engineering designs could account for the projected settlement rates and construction options could be factored into the original design. That documentation could then be included. It is unclear how putting this off to a later date when additional lifts might be required will reduce the construction impacts, as stated in the document. Multiple, unplanned construction lifts could entail significant social, environmental, and economic impacts that should be considered in this document.

In addition, alternative approaches to minimizing the problems associated with fill settling and compaction should be explored in order to maximize the federal expenditures over time and minimize social, environmental, and economic impacts. A clear explanation should be provided as to why, over the long term, alternatives such as soil mixing, incorporating sheet pile, or constructing to a height that allows for the expected settling rate are not viable or cost-effective. Otherwise, this sounds like another emergency repair rather than a planned longer-term solution. It is not clear whether the repeated impacts from the phased construction

approach were factored into the analyses of the environmental consequences (Section 6). The total impacts of the initial and foreseeable additional phases, or project lifts, should be evaluated.

2) Section 1.11, page 4: This section notes that "[c]onstruction methods would be employed to minimize the potential of violating the Toxic Effluent Standards Section 307 of the Clean Water Act." The correct approach would be to employ methods to avoid such violations.

3) Sections 1.13 and 1.14, page 4; Section 4.14, page 37; and Section 6.139, page 132: The Final EIS should clarify whether the specific approved government-furnished borrow areas listed here are already committed to the GNOHSDRRS Project or to any other federal or non-federal project. There would seem to be a question as to the availability of these borrow sites because this document pointedly relies on the NEPA coordination done for those sites as part of the Individual Environmental Reports (IERs) prepared for the GNOHSDRRS Project. In light of the tremendous demands for levee construction borrow material for post-Katrina Corps projects, this document (prepared as a standard EIS rather than as an IER) should be quite clear as to the availability of local or other borrow material required for this piece of the south Louisiana levee upgrades.

The availability of the Government-approved borrow sites will also have ramifications for the borrow material transportation estimates of over 136 million miles of road traveled to deliver over two million loads of borrow material (see Sections 6.57 - 6.71). Based on this tremendous demand, it would also seem that the purchase price might be expected to escalate significantly for projects such as this, which would have later construction start dates.

The NEPA analyses for the GNOHSDRRS Project have been prepared as IERs, under guidance from the White House Counsel on Environmental Quality, in an effort to fast track that work. The standard EIS approach was used for this project and no immediate construction date is proposed. It would seem possible, then, to take the time to explore this issue further and present a thorough analysis for public review.

4) Section 1.20, page 6: Because of the uncertainty discussed above regarding the source of borrow material and the previous note in the Draft EIS (Section 1.16, page 5) that minimal amounts of pollutants may be associated with the borrow material, the unqualified use in this section of the term "clean earthen material" should be clarified.

5) Section 1.23, page 7: This section offers the first acknowledgement of the potential lack of funding for project construction, indicating that "the possibility exists that a portion of the levee may proceed through design stage only." This has implications with regard to fully funding wetland mitigation and monitoring. However, other sections of the document indicate that the project does have adequate funding. This should be clarified in the Final EIS.

6) Section 1.16 (page 5) and Table 1-1 (page 8) do not seem to be in agreement. The narrative in the first instance indicates that the deposition of the fill material will not violate State water quality standards. However, the table indicates that the State may not have yet made such a determination. Please clarify in the Final EIS.

7) Table 1-1 (page 9): The compliance column for the Marine Protection, Research and Sanctuaries Act should read "not applicable" rather than "full compliance."

8) Section 3.9, pages 13-14: This section explains that the funding for this project is from the same funding source as that for the rest of the major post-Katrina levee upgrade work, i.e. the work being conducted by the New Orleans District of the Corps for the GNOHSDRRS Project. In fact, the New Orleans to Venice non-federal levee work will tie into the GNOHSDRRS work and will comprise a portion of the overall risk reduction system. The Draft EIS indicates in this section that the required federal funding is available, as provided by the post-Katrina supplemental funding appropriations. Elsewhere, the document includes statements that full funding may not be available. This should be clarified in the Final EIS.

9) Sections 3.12 and 3.13, page 15: The Draft EIS states that additional Congressional authorization and appropriations would be required to allow the Corps to construct this levee work and the associated federal New Orleans to Venice levee work to the same 100-year level of protection being provided in the adjoining GNOHSDRRS Project. The Final EIS should clarify whether such authorization and appropriations are being requested by the Corps.

This non-federal project is being designed to tie into the GNOHSDRRS Project, which is being built to provide risk reduction for a one percent storm surge. This project is being built to the two percent level of risk reduction. An explanation should be provided in the Final EIS of any engineering vulnerabilities associated with a transition between one percent and two percent flood protection at the tie-in point.

Also, the statement that funding for the two New Orleans to Venice projects (the federal levee project and the non-federal levee project) is not sufficient to construct them to the currently authorized 50-year, or two percent, level of protection. This would seem to imply that additional appropriations might be required, though several previous statements imply that full funding is currently available for the authorized project. Clarification should be provided in the Final EIS.

The statement that much of the non-federal New Orleans to Venice project could be completed, depending on additional "allocations" is unclear. The special meaning being conveyed by the quotation marks may be inferred to be that the Corps might be able to re-allocate funding from within the agency's existing budget to complete the project to the two percent level, rather than relying on additional Congressional appropriations. Clarification should be provided in the Final EIS.

10) Section 3.17, Part 5.a.: The Draft EIS indicates that the levee reach for this project is served by four existing pump stations, which were completed 40 to 50 years ago. While it is stated that these stations can provide pumping capacity for a two-year rainfall event, it should be clearly stated as to whether there is sufficient existing pumping capacity to accommodate a 50 year storm surge event, particularly if there are different timing factors involved in the two types of events. In addition, many recommendations were made post-Katrina regarding pump station safety and engineering modifications. The Final EIS should provide a clear understanding of any pump station upgrades necessary to meet the Corps standards, particularly if these stations were not built as federal facilities.

11) Section 3.18, "Prior Studies and Related Reports:" In addition to providing a list of "related projects," the Final EIS should provide information as to whether there will be any impacts to those projects from this proposed action and how such impacts might be avoided or mitigated. Not only is the geographic proximity of other projects of interest but any relationships between the projects should be explored with regard to engineering design, project maintenance and operation, environmental and social impacts, etc. A web link could be provided for information on each of the related projects listed or at least for those deemed to have environmental consequences with regard to the proposed action.

12) Section 3.18, 5, page 23: The Final EIS should clarify that while the Coastal Wetland Planning, Protection and Restoration Act (CWPPRA) program is authorized through the year 2019, the funding source for the program (Sport Fish Restoration and Boating Safety Trust Fund) has not been renewed and may only have sufficient funding to support new construction projects for another two to three years.

13) Section 3.18, Part 6.a.: The Final EIS should explain whether the proposed non-federal levee project will have any impacts upon the West Point a la Hache Siphon Diversion, Outfall Management, and Marsh Creation Projects and the Naomi Siphon Diversion and Outfall Management Projects. Maps should be provided showing all of the related projects in relationship to the proposed New Orleans to Venice Non-Federal Project and to the New Orleans to Venice Federal Project.

14) Section 3.18, 10, "Mississippi River Sediment Delivery System – Bayou Dupont:" This information is out of date and could be corrected as follows:

The Mississippi River Sediment Delivery System – Bayou Dupont Marsh Creation Project is a wetland restoration project that created approximately 500 acres of marsh using Mississippi River Sediment. The Environmental Protection Agency (EPA) was the lead federal sponsor for this project, which was conducted under the Coastal Wetlands Planning, Protection and Restoration Act of 1990 (CWPPRA). The Louisiana Office of Coastal Restoration and Protection (OCPR) was the local sponsor and performed the engineering and design services.

The project location is approximately four miles northwest of Myrtle Grove, LA in the Barataria Basin within Jefferson and Plaquemines Parishes, outside upper Section 2 of the NFL. The objective of the project was to create sustainable marsh using the renewable resource of Mississippi River sediment in a rapidly eroding and subsiding section of the Barataria land bridge. Approximately 2.3M cubic yards of river sediment were dredged and pumped approximately five miles from the Mississippi River to the marsh creation area. The project was completed in March 2010 at a cost of approximately \$28.8M. An adjacent marsh creation increment of approximately 90 acres was also constructed utilizing \$3M in funding from National Oceanic and Atmospheric Administration (NOAA) Stimulus Funds Grant received by OCPR and additional CWPPRA funds.

15) Section 3.18, 11, "Mississippi River – Gulf Outlet (MRGO), Ecosystem Restoration Study, Louisiana and Mississippi." This information is out of date and should reflect the current status of the project and the December 9, 2010 Draft EIS. Please update the Final EIS.

16) Section 3.18, 12, "Louisiana Coastal Area Ecosystem Restoration Study (LCA):" This information should be brought up to date, including the October 2010 release of five Supplemental EIS's for near-term ecosystem restoration projects. Please update the Final EIS.

17) Section 4.3 pages 32 -35: This presentation may not accurately document the findings from the Corps' evaluation of nonstructural options and the presentation should be clarified. There is no explanation of whether an alternative was evaluated which would comprise a mix of relocations, raising in place, and flood proofing. The document should also clarify the level of analysis that any of these nonstructural options alone or in combination were given. It would seem that they fell out of the screening because the Corps determined "the project authorization was for the modification or replacement of existing non-Federal levees" and that other options need not be analyzed in any detail. If this determination was decisive at the outset, a clear presentation should be provided of the Corps position regarding how this meets the CEQ guidance on alternatives development and analysis. According to CEQ (<http://ceq.hss.doe.gov/nepa/regs/40/40p2.htm>), alternatives that are outside the scope of what Congress has approved or funded must still be evaluated in the EIS if they are reasonable, because the EIS may serve as the basis for modifying the Congressional approval or funding in light of NEPA's goals and policies." This is particularly significant in this case, in that the full project funding may not be currently available. It is also significant because the project proposal envisions a phased construction, with the potential for attendant cost increases and social impacts.

18) Appendix J: This section describes the process of developing a mitigation plan and the regulations and objectives for such a plan. While it does provide information on the determination of mitigation credits required, it does not contain an array of selected mitigation projects and financial assurances that those projects will be implemented in a timely manner. In this case, credits should not be accepted for preservation as a method of wetland compensation.

A specific commitment should be included in the body of the Final EIS to adhere to the mitigation priority areas established in the Draft FWCA Report (Appendix A within Appendix J), which also includes mitigation objectives, habitat-based measures of success, habitat-specific design criteria, planting schedules, conceptual contingency and remedial actions and responsibilities, and conceptual monitoring and reporting standards. Additional guidance on success criteria was provided by the National Marine Fisheries Service, which should be also followed.

19) It is unclear why the environmental analyses have been separated for the New Orleans to Venice non-federal and federal levee projects. For purposes of complete environmental analyses and wetland mitigation, it might be instructive to include at least the entire reach along the west side of the River in one analysis.

20) In order to make the EIS understandable to the reader and to meet the requirements for public disclosure, it must be written in clear and understandable language. Much of the document, however, is quite arduous to read. One suggestion to assist the reader would be to include a list of acronyms and abbreviations, placed prominently near the front of the document. As an example of the problem, one paragraph alone (a key paragraph describing the locally preferred plan on page 3) uses eight different abbreviations for a total of 27 instances and another single paragraph (an important description of the risk reduction planning on page 15) uses 10 different abbreviations for a total of 22 instances.

Air Quality

Any demolition, construction, rehabilitation, repair, dredging, or filling activities have the potential to emit air pollutants and EPA Region 6 recommends best management practices be implemented to minimize the impact of any air pollutants. Furthermore, construction and waste disposal activities should be conducted in accordance with applicable local, state and Federal statutes and regulations.

Greenhouse Gas Emissions and Climate Change

By statutes, Executive Orders, and agency policies, the Federal government is committed to the goals of energy conservation, reducing energy use, and eliminating or reducing greenhouse gas (GHG) emissions. Although the proposed project's annual GHG emissions are projected to be less than 25,000 metric tons per year, EPA recommends the FEIS include a discussion of GHG emissions and climate change. Please see CEQ's "Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions" for guidance.

Executive Order (EO) 13045-Protection of Children from Environmental Health Risks and Safety Risks

EPA recommends the Final EIS consider the April 1997 Executive Order (EO) 13045 - Protection of Children from Environmental Health Risks and Safety Risks when evaluating project impacts. This EO requires that all Federal agencies "(a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children, and (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks."

Environmental Justice

The purpose of this project is to improve/reconstruct and incorporate the non-federal levees from Oakville to Venice into the New Orleans to Venice, Louisiana Federal Hurricane Protection Levee Project. Currently, hurricane and flood protection is provided by a system of federal levees along the Mississippi River and federal and non-federal back levees. The back levees border on the Gulf's coastal wetlands, and they protect the land between the gulf and the river from storm surges. The non-federal levees are located on the west bank of the Mississippi River in Plaquemines Parish, Louisiana and the purpose of the project is to repair/replace/modify the 32 miles of levees from Oakville to Venice and incorporate them into

the federal system. The project will ensure they meet the 2% design grade (which is a 50-year level of risk reduction) to protect the population, property and the area from flooding, storm surges, and other hurricane damage. Hurricanes Katrina and Rita caused extensive flooding, loss of life and damage to the area, including to the levees and pump stations. To prevent further destruction and to safeguard the welfare of all the people and their way of life, the levees must be repaired. Without the repairs/improvements to this levee system, the lives of all the residents of this parish will be at risk.

The benefits of the project not only relate to safeguarding human safety and property as mentioned above, but they also will usher in new economic opportunities for Plaquemines Parish through tourism, growth of industry, improved transportation systems, job growth, and increased agricultural opportunities. The negative impacts of the project will be temporary and short-lived, since each one-mile segment will be completed within a short time, before the next segment is undertaken. Traffic flow is expected to be temporarily affected, and increased noise and dust will be a nuisance as each segment is constructed. These negative impacts will be experienced by all the residents equally, but for a short duration.

Plaquemines Parish is not considered particularly low income. In Census Tract 504 (the project area) 24% of individuals and 21% of families fell below poverty levels in 2000 (Census Bureau estimate) while Plaquemines Parish had 18% and 15% respectively. In Louisiana, the percentage of individuals below poverty was 17.6%. Regarding minority status, Census Tract 504 had 9.3% of the total population of Plaquemines Parish in 2000, and the entire Parish had a 32% minority population. Minority levels in the Census Tract are expected to be similar to those of the Parish as a whole. Louisiana's minority percentage in 2000 was 38.9%. The percentage of minority residents in the project area was less than that of the State. Under the Executive Order on Environmental Justice, we are to determine if there are "disproportionately high and adverse impacts" affecting low-income and minority communities as a result of our laws, policies and activities.

The project detailed in this DEIS, raises no environmental justice concerns. The negative impacts will affect all residents, but they will be minor, temporary and short-term in nature. The DEIS makes it clear that the positive benefits of this levee restoration/ replacement/repair project will be enjoyed equally by all residents, as well. Therefore, there will be no disproportionately high or adverse impacts caused by this project.

Tribal Concerns:

No state or federally recognized Tribes currently live in this census block of Plaquemines Parish, although 2% of the population in the Parish is Indian. Most of the Indians who live in the Parish are of Houma Tribe ancestry, and they are dispersed along the marshes, bays and inlets, and make their living primarily by fishing. Many different Tribal groups lived there temporarily in the early days of Spanish and French exploration/colonization. The Draft EIS clearly details the correct protocols followed with regard to archeological/anthropological findings. One set of mounds is located in the general area, but it is not in the project area and will not be affected by any of the activities. No ruins related to Tribal groups are expected to be found under the

existing levees that will be excavated. In the event that any relics, etc. are found, the appropriate authorities and Tribes will be notified. The following Tribes are being consulted:

Jena Band of Choctaws, Mississippi Band of Choctaws, Chitimacha Tribe of Louisiana, Coushatta Tribe of Louisiana, Tunica-Biloxi Indians of Louisiana, Caddo Tribe in Texas, United Houma Nation, Alabama Coushatta, Caddo Adala Tribe and several Tribes in Oklahoma. The Alabama Coushatta have replied that they have no concerns about the project. Because this project will not affect any traditional fishing rights that the Tribes may have, Tribes also will not be disproportionately and adversely affected by this project.

Information should be included about the procedures used or to be used regarding notification of the State-Recognized Tribes about this project. State and federally recognized tribes may have burial mounds that are unknown to outsiders.